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5                   UNITED STATES DISTRICT COURT  
6                   EASTERN DISTRICT OF WASHINGTON  
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9                   EDDIE J. COMBS,  
10                  Plaintiff,  
11                  vs.  
12                  ARTHUR D. CURTIS and STEVE  
13                  TUCKER,  
14                  Defendants.

15                  NO: CV-12-5047-JPH  
16                  ORDER ADOPTING REPORT AND  
17                  RECOMMENDATION AND  
18                  DENYING MOTION AS MOOT

19                  BEFORE THE COURT are Plaintiff's documents entitled, "Supplemental  
20                  Information to Support Objection to R/R to (Deny) Hearing," (ECF No. 44),  
21                  received on January 28, 2013, and "Objection [to] Recommendation (to) Deny,  
22                  Motion [to] Order, Hearing," (ECF No. 45), received on February 4, 2013. By  
23                  Report and Recommendation dated January 4, 2013, Magistrate Judge Hutton  
24                  recommended that Plaintiff's Motion for a Hearing be denied as moot. ECF No.  
25                  41.

26                  ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING  
27                  MOTION AS MOOT -- 1

1 Mr. Combs' Complaint was dismissed without prejudice for failure to state a  
2 claim upon which relief may be granted under *Heck v. Humphrey*, 512 U.S. 477,  
3 487 (1994), and this action was closed on September 6, 2012. ECF No. 28.  
4 Plaintiff's appeal was deemed frivolous by the Ninth Circuit Court of Appeals on  
5 November 8, 2012 (ECF No. 36), and Plaintiff failed to pay the filing fee. The  
6 Ninth Circuit issued its Mandate on December 12, 2012. ECF No. 40. Based on  
7 the disposition of this matter, there is no basis upon which to conduct any further  
8 proceedings.

9 The Court has reviewed Plaintiff's objections in which he asserts a Seventh  
10 Amendment right to a jury trial and again demands that his complaint be served.  
11 Plaintiff is admonished that when a complaint is dismissed for failure to state a  
12 claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and  
13 1915A(b)(1), there will be no trial. A District Court cannot require Defendants to  
14 respond to a lawsuit that has been dismissed, especially when the Ninth Circuit  
15 Court of Appeals deemed the appeal of that dismissal frivolous.

16 For the reasons set forth above and in the Report and Recommendation by  
17 Magistrate Judge Hutton, **IT IS ORDERED** the Report and Recommendation  
18 (ECF No. 41) is **ADOPTED in its entirety**. Plaintiff's Motion to Order Hearing  
19 (ECF No. 37), is **DENIED**. Plaintiff shall not be permitted to file any further  
20 documents in this action.

ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING  
MOTION AS MOOT -- 2

**IT IS SO ORDERED.** The District Court Executive is directed to enter this Order, enter judgment, and forward copies to Plaintiff. This file shall remain CLOSED. The Court certifies that any appeal of this dismissal would not be taken in good faith.

**DATED** this 12<sup>th</sup> day of February, 2013.



*Thomas O. Rice*  
THOMAS O. RICE  
UNITED STATES DISTRICT JUDGE

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING  
MOTION AS MOOT -- 3**